

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

JAYSON S. MURPHY,	)	CASE NO.: 1:12-CV-1951
	)	
Petitioner,	)	JUDGE DONALD C. NUGENT
	)	
v.	)	<u>ORDER ADOPTING MAGISTRATE'S</u>
	)	<u>REPORT AND RECOMMENDATION</u>
WARDEN,	)	
Mansfield Correctional Institution,	)	
	)	
Respondent.	)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Kathleen B. Burke. (ECF #26). The Report and Recommendation, issued on February 19, 2014, is hereby ADOPTED by this Court. Petitioner Jayson S. Murphy filed this action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner timely filed objections to Magistrate Judge Burke's Report and Recommendation on March 3, 2014 (ECF #28).

This Court has since reviewed Magistrate Judge Burke's Report and Recommendation *de novo*, and finds it to be thorough, well-written, and correct. *See* FED. R. CIV. P. 72(b)(3). This Court also finds that Petitioner Murphy's objections to the Magistrate Judge's Report – while extensive – raise no arguments, either factual or legal, that have not already been comprehensively and competently addressed by the Magistrate Judge's Report. Without exception, this Court finds the Magistrate Judge's treatment of Petitioner's arguments to be correct and fair, and therefore adopts the Report in its entirety, over Petitioner's objections.

Specifically, Magistrate Judge Burke did not error in finding that Petitioner's grounds for relief are procedurally defaulted. Petitioner failed to fairly present his claims at all levels of the state court appellate review process and cannot demonstrate that state court remedies remain available to

him to raise his grounds for relief. *See Williams v. Anderson*, 460 F.3d 789, 806 (6th Cir. 2006) (“If, at the time of the federal habeas petition, state law no longer allows the petitioner to raise the claim, the claim is procedurally defaulted.”); *Baston v. Bagley*, 282 F. Supp.2d 655, 661 (N.D. Ohio 2003) (“Issues not presented at each and every level [of the state courts] cannot be considered in a federal habeas corpus petition.”).

Magistrate Judge Burke recommended in her well-reasoned Report that Jayson Murphy’s Petition for Writ of Habeas Corpus be denied, and this Court finds no reason to disagree with that recommendation. Therefore, the Report and Recommendation (ECF #26) is ADOPTED by this Court in its entirety, and Murphy’s Petition for Writ of Habeas Corpus is DENIED.

Further, for the reasons stated in this Order and in the Magistrate Judge’s Report, a reasonable jurist could not conclude that dismissal of the Petition is in error or that Petitioner should be permitted to proceed further. Accordingly, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b).

IT IS SO ORDERED.

  
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JUDGE DONALD C. NUGENT  
United States District Judge

DATED: March 31, 2014